
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

ARTURO GARZA,

Petitioner,

versus

M. MARTIN,

Respondent.

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CIVIL ACTION NO. 1:11-CV-597

**MEMORANDUM ORDER OVERRULING PETITIONER’S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Petitioner Arturo Garza, an inmate confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends that the above-styled petition should be dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings and all available evidence. Petitioner filed objections to the magistrate judge’s Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes Petitioner’s objections are without merit. In *Bond v. United States*, ___ U.S. ___, 131 S.Ct. 2355, 180 L.Ed.2d 269 (2011), the Supreme Court held that a person convicted of a federal offense had standing to assert that, in enacting the applicable criminal statute, Congress exceeded its power under the Tenth Amendment. The

Supreme Court did not hold that such a claim could be raised in a § 2241 petition, and the Court did not invalidate any federal criminal statutes. *See Baker v. Holder*, 2012 WL 4373696, at *1 (5th Cir. 2012) (unpublished). Thus, Petitioner's petition does not meet the criteria required to support a claim under the savings clause of 28 U.S.C. § 2255. *See Padilla v. United States*, 416 F.3d 424 (5th Cir. 2005); *Reyes-Requena v. United States*, 243 F.3d. 893 (5th Cir. 2001).

ORDER

Accordingly, Petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Sherman, Texas, this 16th day of October, 2012.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE